

AMENDED IN SENATE APRIL 30, 2002

AMENDED IN SENATE APRIL 17, 2002

SENATE BILL

No. 1871

Introduced by Senator Monteith

February 22, 2002

An act to add Chapter 12 (commencing with Section 35290) to Part 4 of, and to add Chapter 2.1 (commencing with Section 35515) to Part 5 of, Division 13 of, the Water Code, relating to California water districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1871, as amended, Monteith. Root Creek Water District.

(1) Existing law, the California Water District Law, provides for the formation of California Water Districts and grants to those districts the authority to provide water and sewage services. That district law generally requires the members of the board of a California water district, and the voters of that district, to be landowners, but provides for the modification of these requirements by the board of that district.

This bill would ~~modify requirements relating to the composition of, and manner of election of directors to, the board of the Root Creek Water District, which is a California Water District, to reflect changes in land use within that district. The bill would apply these requirements to a district election that is held following a determination by the board relating to the amount of land in the district that is devoted to agricultural and nonagricultural uses, respectively. The duties established by this bill for that district relating to the conduct of its elections and the composition of its board would impose a state-mandated local program.~~

~~The bill would authorize that district to purchase, lease, distribute, and provide for the generation of, electric power in the same manner as irrigation districts. The bill would authorize that district to purchase, leases, and distribute natural gas in accordance with certain procedures. The require the secretary of the district, on or before February 1, 2003, and each year thereafter, to determine whether at least 1000 persons reside within the district, and if so, to certify that determination to the board of directors. The bill would require the board, upon receiving that certification, to prepare and adopt a resolution initiating reorganization proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, for submission to the local agency formation commission of Madera County. The duties established by this bill for the district relating to reorganization would impose a state-mandated local program.~~

The bill would authorize the district to provide, generate, and deliver electric power; and to construct, operate, and maintain works, facilities, improvements and property for that generation and delivery.

The bill would authorize the district to provide, generate, and deliver natural gas and to construct, operate, and maintain works, facilities, improvements, and property for that generation and delivery.

The bill would grant to that district numerous new powers, including the authority to protect against fire, develop public recreation, construct street lighting, undertake mosquito abatement operations, operate a police department, and provide and maintain public airports, until the effective date of any reorganization of the district.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) The Root Creek Water District is a California water district
2 formed October 1, 1996, to serve approximately 9,500 acres of
3 land zoned as agricultural property in eastern Madera County.

4 (b) Every landowner within the district signed the formation
5 petition. The local agency formation commission and the county
6 board of supervisors unanimously provided all necessary
7 approvals for the formation of the district. The formation of the
8 district was approved by the unanimous vote of landowners in the
9 September 17, 1996, formation election. The district formation
10 was confirmed by the Madera County Board of Supervisors on
11 October 1, 1996.

12 (c) The property within the district is not currently served by
13 any other public utility, water district, or improvement district.

14 (d) The existing agricultural operations within the district are
15 currently dependent on groundwater, as they have been since their
16 establishment 30 or more years ago. The pumping level, volume,
17 and quality of the groundwater are all declining. The primary
18 purpose of the district is to enter into agreements with the Madera
19 Irrigation District, the Chowchilla Water District, and the Friant
20 Water Users Authority, and its member units, to allow the district
21 to acquire water from the San Joaquin River and other sources to
22 engage in intentional groundwater recharge. The district intends
23 to implement conjunctive use of the groundwater basin underlying
24 the district to provide reliable water supplies for the existing
25 agricultural and anticipated municipal and industrial water users
26 within the district.

27 (e) On December 30, 1999, the district entered into an
28 agreement entitled “Agreement Concerning Agricultural,
29 Municipal and Industrial Water Use Within Root Creek Water
30 District” with the Friant Water Users Authority, the Madera
31 Irrigation District, and the Chowchilla Water District to facilitate
32 the district’s ability to provide water to all users within the district
33 and to correct the existing groundwater overdraft within the
34 district.

35 (f) To efficiently and economically fulfill the purposes of the
36 district, and to better serve the landowners of the district and its
37 future residents as the municipal and industrial projects approved
38 within the district advance, it is necessary and appropriate for the
39 district to have certain powers that are granted to other public
40 entities in the state. As the district transitions from an agricultural

1 district to an urban district, it is also necessary and appropriate to
2 modify procedures relating to district elections and the
3 composition of the board of the district.

4 SEC. 2. Chapter 12 (commencing with Section 35290) is
5 added to Part 4 of Division 13 of the Water Code, to read:

6
7 CHAPTER 12. METHODS OF ~~ELECTIONS~~ GOVERNANCE FOR ROOT
8 CREEK WATER DISTRICT
9

10 35290. This chapter applies only to the Root Creek Water
11 District. For the purposes of this chapter, “district” means the
12 Root Creek Water District.

13 ~~35290.2.—(a) This section applies for the district elections~~
14 ~~following a determination by the board that at least 20 percent of~~
15 ~~the land area of the district is devoted to a combination of~~
16 ~~residential, industrial, and nonagricultural commercial uses.~~

17 ~~(b) (1) Notwithstanding any other provision of this division,~~
18 ~~the board of directors, by resolution, shall establish two divisions~~
19 ~~within the district.~~

20 ~~(2) One division shall be comprised of that portion of the~~
21 ~~district that is devoted to agricultural uses, and shall be referred to~~
22 ~~as the agricultural division. The other division shall be comprised~~
23 ~~of that portion of the district that is devoted to residential,~~
24 ~~industrial, and nonagricultural commercial uses, and shall be~~
25 ~~referred to as the urban division.~~

26 ~~(c) The board shall consist of seven directors. The voters in the~~
27 ~~urban division shall elect two directors and the voters in the~~
28 ~~agricultural division shall elect five directors.~~

29 ~~(d) In the urban division, the directors shall be residents of the~~
30 ~~division and shall be registered voters at the time of their election~~
31 ~~and during their term of office. All elections in that division shall~~
32 ~~be conducted in accordance with Section 35054.~~

33 ~~(e) In the agricultural division, the directors shall be one of the~~
34 ~~following:~~

35 ~~(1) A holder of title to land within the division.~~

36 ~~(2) The legal representative of a holder of title to land within~~
37 ~~the division in accordance with Section 34030.~~

38 ~~(3) A representative designated by a holder of title to land~~
39 ~~within the district, if the holder has filed with the district evidence~~
40 ~~of that designation. All elections in that division shall be conducted~~

1 ~~in accordance with Article 1 (commencing with Section 35003) of~~
2 ~~Chapter 1.~~

3 ~~35290.4. (a) This section applies for the district elections~~
4 ~~following a determination by the board that at least 35 percent of~~
5 ~~the land area of the district is devoted to a combination of~~
6 ~~residential, industrial, and nonagricultural commercial uses.~~

7 ~~(b) Notwithstanding any other provision of this division, the~~
8 ~~board of directors, by resolution, shall modify the boundaries of~~
9 ~~the divisions to meet the requirements of paragraph (2) of~~
10 ~~subdivision (b) of Section 35290.2.~~

11 ~~(c) The board shall consist of seven directors. The voters in the~~
12 ~~urban division shall elect three directors and the voters in the~~
13 ~~agricultural division shall elect four directors in accordance with~~
14 ~~the requirements applicable to each respective division, as set forth~~
15 ~~in Section 35290.2.~~

16 ~~35290.6. (a) This section applies for the district elections~~
17 ~~following a determination by the board that at least 50 percent of~~
18 ~~the land area of the district is devoted to a combination of~~
19 ~~residential, industrial, and nonagricultural commercial uses.~~

20 ~~(b) The board shall consist of seven directors. The board of~~
21 ~~directors, by resolution, shall dissolve the two divisions~~
22 ~~established pursuant to this chapter. The directors shall be elected~~
23 ~~and the elections shall be conducted in accordance with~~
24 ~~subdivision (d) of Section 35290.2.~~

25 ~~35290.8. To the extent that the requirements of this chapter,~~
26 ~~including requirements relating to the establishment or dissolution~~
27 ~~of divisions or the qualifications of the directors, affect the terms~~
28 ~~of the directors, those terms shall be modified, by resolution, by~~
29 ~~the board.~~

30 ~~35290.10 For the purposes of this chapter, a property is~~
31 ~~deemed to be devoted to residential, industrial, or nonagricultural~~
32 ~~commercial uses if a subdivision map for that property is recorded.~~

33 ~~35290.2. (a) On or before February 1, 2003, and each year~~
34 ~~thereafter, the secretary of the district shall determine whether at~~
35 ~~least 1,000 persons reside within the district.~~

36 ~~(b) If the secretary determines that at least 1,000 persons reside~~
37 ~~within the district, the secretary shall certify that fact to the board~~
38 ~~of directors.~~

39 ~~(c) Upon receiving that certification, the board of directors~~
40 ~~shall promptly prepare and adopt a resolution initiating~~

proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Part 1 (commencing with Section 56000) of Division 3 of Title 5 of the Government Code). The resolution shall propose one of the following:

(1) A reorganization that consists of the detachment of inhabited territory from the district and the formation of a community services district that includes not less than that affected territory.

(2) A reorganization that consists of the dissolution of the district and the formation of a community services district that includes the affected territory.

(d) The district shall file its resolution initiating proceedings with the local agency formation commission of Madera County. The district may support and shall not oppose the commission's approval of the proposed reorganization.

35290.4. (a) This chapter does not invalidate any act of the district, its directors, or its officers and employees made or performed while the district was operating as a landowner voter district.

(b) This chapter does not affect any act or proceeding undertaken for the authorization, issuance, or sale of any bonds of the district in any manner provided by law prior to the date on which the board of directors adopts its resolution initiating proceedings for a reorganization pursuant to this chapter.

SEC. 3. Chapter 2.1 (commencing with Section 35515) is added to Part 5 of Division 13 of the Water Code, to read:

CHAPTER 2.1. PROVISIONS PERTAINING ONLY TO THE ROOT
CREEK WATER DISTRICT

35515. This chapter applies only to the Root Creek Water District. For the purposes of this chapter, "district" means the Root Creek Water District.

~~35515.2. The district may purchase, lease, distribute, and provide for the generation of, electric power in the same manner and subject to the same restrictions as irrigation districts.~~

~~35515.4. (a) The district may purchase, lease, and distribute natural gas in accordance with this section.~~

~~(b) The district may purchase or lease natural gas from any public or private entity, and may provide for the acquisition,~~

1 ~~operation, leasing, and control of plants for the generation,~~
2 ~~transmission, distribution, sale, and lease of natural gas, including~~
3 ~~sale to cities, public utility districts, or persons.~~

4 ~~(e) The district has the same powers, duties, and liabilities~~
5 ~~respecting natural gas, and the acquisition, operation, and control~~
6 ~~thereof, as it has with regard to water or electricity, as applicable.~~

7 ~~(d) The district may construct and operate natural gas works.~~

8 ~~(e) The district may sell, dispose of, and distribute natural gas~~
9 ~~for use inside and outside its boundaries.~~

10 ~~(f) (1) The district may construct and operate natural gas lines~~
11 ~~along, over, under, or upon any road or across any railway or~~
12 ~~conduit that the route of the lines intersects or runs along.~~

13 ~~(2) The district may not construct and operate natural gas lines~~
14 ~~along, over, under, or upon any road or conduit within any city or~~
15 ~~district unless permission to do so is granted by the governing body~~
16 ~~of the city or district, which in so doing may impose reasonable~~
17 ~~conditions upon the proposed use.~~

18 ~~(g)–~~

19 *35515.2. (a) The district may provide, generate, and deliver*
20 *electric power, and may construct, operate, and maintain any and*
21 *all works, facilities, improvements, and property, or portion*
22 *thereof, necessary or convenient for that generation and delivery.*

23 *(b) The electric powerplant or plants and transmission lines*
24 *constructed pursuant to this chapter may be leased for operation,*
25 *or the power generated may be used, by the district for its own*
26 *purposes or be sold to any public or private entity that is engaged*
27 *in the distribution or sale of electricity.*

28 *(c) Nothing in this section grants to the district the authority to*
29 *provide, sell, or deliver electric power at retail.*

30 *(d) A district may not acquire property employed in the*
31 *generation or delivery of electric power for public or private utility*
32 *purposes, except by mutual agreement between the district and the*
33 *owner of that property.*

34 *35515.4. (a) The district may provide, generate, and deliver*
35 *natural gas, and may construct, operate, and maintain any and all*
36 *works, facilities, improvements, and property, or portion thereof,*
37 *necessary or convenient for that generation and delivery.*

38 *(b) The natural gas plant or plants and transmission lines*
39 *constructed pursuant to this chapter may be leased for operation,*
40 *or the power generated may be used, by the district for its own*

1 *purposes or be sold to any public or private entity that is engaged*
2 *in the distribution or sale of natural gas.*

3 *(c) Nothing in this section grants to the district the authority to*
4 *provide, sell, or deliver natural gas at retail.*

5 *(d) A district may not acquire property employed in the*
6 *generation or delivery of natural gas for public or private utility*
7 *purposes, except by mutual agreement between the district and the*
8 *owner of that property.*

9 35515.6. *(a) The district may construct and operate*
10 *electrical lines and natural gas lines along, over, under, or upon*
11 *any road or across any railway or conduit that the route of the lines*
12 *intersects or runs along.*

13 *(b) The district may not construct and operate electrical lines*
14 *and natural gas lines along, over, under, or upon any road or*
15 *conduit with any county, city, or other special district unless*
16 *permission to do so is granted by the governing body of the county,*
17 *city, or special district, which in so doing may impose reasonable*
18 *conditions upon the proposed use.*

19 *(c) If the district constructs lines pursuant to this chapter, the*
20 *district shall restore the road, railway, or conduit intersected to its*
21 *former state of usefulness to the maximum extent possible.*

22 ~~35515.6.—~~

23 35515.8. *(a) The district may not exercise any of the powers*
24 *granted in Section 35515.2 or 35515.4 by this chapter within the*
25 *County of Merced, Madera, or Fresno without the consent of the*
26 *affected county or any water or power agency whose sphere of*
27 *influence may be affected.*

28 *(b) Any electric power facilities constructed by the district that*
29 *require water shall be designed to utilize treated effluent, and the*
30 *district shall determine that the power facilities will not reduce the*
31 *supplies of water for water users of the district or other water users*
32 *in the counties identified in subdivision (a).*

33 ~~35515.8.—~~

34 35515.9. *(a) The district may construct facilities or take*
35 *action for the following purposes:*

36 ~~(a)—~~

37 *(1) As described in subdivisions (a) to (k), inclusive, and*
38 *subdivisions (m) to (p), inclusive, of Section 61600 of the*
39 *Government Code.*

40 ~~(b)—~~

(2) As described in Section 16461, 16462, or 16463 of the Public Utilities Code.

(b) The district may not exercise the powers granted by paragraph (1) of subdivision (a) on or after the effective date of any reorganization described in Section 35290.2.

SEC. 4. The Legislature finds and declares that this act, which is applicable only to the Root Creek Water District, is necessary because of the unique and special circumstances of that district relating to population and land use changes. It is, therefore, hereby declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable to the district and the enactment of this special law is necessary for the operation of the district for the public good.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

